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10/809,674	03/25/2004	George John Dawkins	AUS920040128US1	7811

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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER
TRUONG, THANHNGA B

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/809,674	DAWKINS ET AL.
	Examiner	Art Unit	
	Thanhnga B. Truong	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>25 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>11/8/06</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This action is responsive to the communication filed on March 25, 2004.

Claims 1-27 are pending. At this time, claims 1-27 are rejected.

Information Disclosure Statement

2.   The information disclosure statement (IDS) filed on November 8, 2006.

The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the

information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.   Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

         a.   *Referring to claim 19:*

                 i.   Claim 19 recites "a computer program product in a computer

readable medium for managing operating systems, the computer program product

comprising: first instructions for receiving a request from an operating system in the

multi-partitioned data processing system to register for access to hardware in the

multi-partitioned data processing system, wherein the request includes a key code

for the operating system; second instructions, responsive to receiving the request,

for determining whether the operating system is an authorized operating system

using the key code; and third instructions for registering the operating system if the

operating system is the authorized operating system." The claim is directed toward a

software program, and this is a non-statutory subject matter. Furthermore, applicant

has pointed out in the specification (see paragraph 0116 of page 22 of specification)

"the processes of the present invention are capable of being distributed in the

form of a computer readable medium of instructions and a variety of forms

and that the present invention applies equally regardless of the particular type

of signal bearing media actually used to carry out the distribution. Examples

of computer readable media include recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMs, DVD-ROMs, *and transmission-type media, such as digital and analog communications links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions*. The computer readable media may take the form of coded formats that are decoded for actual use in a particular data processing system,"which is clearly including intangible media such as signals, carrier waves, transmissions, optical waves, transmission media or other media incapable of being touched or perceived absent the tangible medium through which they are conveyed. Therefore, claim 19 recites a non-statutory subject matter.

      b.   *Referring to claims 1and 10:*

      i.   These claims consist a method and a system to implement claim 19, thus they are rejected with the same rationale applied against claim 19 above.

      c.   *Referring to claims 2-9, 11-18, and 20-27:*

      i.   These claims are dependent claims of either 1, 10 and 19, thus they are rejected with the same rationale applied against claims 1, 10 and 19 above.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hu (US 5,586,260), and further in view of Waite et al (US 5,103,476).

      a.   *Referring to claim 1:*

      i.   Hu teaches a method in a multi-partitioned data processing system for managing operating systems (as shown in Figure 1 and column 1, lines 9-19 of Hu), the method comprising:

(1)   receiving a request from an operating system in the multi-partitioned data processing system to register for access to hardware in the multi-partitioned data processing system, wherein the request includes a key code for the operating system **(column 1, lines 17-26; lines 57-67 of Hu)**;

(2)   responsive to receiving the request, determining whether the operating system is an authorized operating system using the key code; and registering the operating system if the operating system is the authorized operating system **(column 1, lines 17-26; column 2, lines 30-41; and column 4, lines 17-43 of Hu)**.

ii.   Although Hu teaches a method in a multi-partitioned data processing system for managing operating systems (as shown in Figure 1 and column 1, lines 9-19 of Hu), Hu is silent on the capability of registering the operating system and/or computer. On the other hand, Waite teaches this limitation in **Figures 1 and 3 and column 2, line 66 through column 3, line 42 of Waite.**

iii.   It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1)   have modified the invention of Hu with the teaching of Waite for monitoring the licensees is warranted **(column 1, lines 30-31 of Waite).**

iv.   The ordinary skilled person would have been motivated to:

(1)   have modified the invention of Hu with the teaching of Waite to ensure that all copies of the activated program will include unique licensee identification data, thereby allowing unauthorized copies to be traced to the original licensee **(column 2, lines 10-13 of Waite).**

b.   *Referring to claim 2:*

i.   Hu further teaches:

(1)   terminating the operating system if the operating system is an-unauthorized operating system **(column 1, lines 39-40 of Hu).**

c.   *Referring to claim 3:*

i.   Hu further teaches:

(1)   wherein the determining step includes: comparing the key code to a set of key codes for authorized operating systems; and determining whether a match is present between the key code and any key code in the set of key codes **(column 2, lines 20-25; lines 45-50 of Hu).**

    d.   *Referring to claim 4:*

        i.   Hu further teaches:

(1)   wherein the set of key codes is located in a partition profile **(see Figure 4, element 56; column 2, line 9; column 6, lines 9-11 of Hu).**

    e.   *Referring to claim 5:*

        i.   Hu further teaches:

(1)   wherein the set of key codes are defined through a hardware management console **(column 4, lines 38-43 of Hu).**

    f.   *Referring to claim 6:*

        i.   Hu further teaches:

(1)   wherein the partition profile is stored in a nonvolatile memory **(column 4, lines 38-43 of Hu).**

    g.   *Referring to claim 7:*

        i.   Hu further teaches:

(1)   wherein the key code for the operating system is embedded within the operating system and is a unique key code **(see Figure 4, element 56; column 2, line 9; column 6, lines 9-11 of Hu).**

    h.   *Referring to claim 8:*

        i.   Hu further teaches:

(1)   wherein the receiving step, the determining step, and the registering step are performed in platform firmware **(as shown in Figure 1 and column 1, lines 9-19 of Hu).**

    i.   *Referring to claim 9:*

        i.   This claim has limitations that is similar to those of claims 1-2, thus it is rejected with the same rationale applied against claims 1-2 above.

    j.   *Referring to claim 10:*

            i.   This claim consists a data processing system for managing operating systems to implement claim 1, thus it is rejected with the same rationale applied against claim 1 above.

        k.   *Referring to claims 11-18:*

            i.   These claims have limitations that is similar to those of claims 2-9, thus they are rejected with the same rationale applied against claims 2-9 above.

        l.   *Referring to claim 19:*

            i.   This claim consists a computer program product in a computer readable medium for managing operating systems to implement claim 1, thus it is rejected with the same rationale applied against claim 1 above.

        m.   *Referring to claims 21-27:*

            i.   These claims have limitations that is similar to those of claims 2-9, thus they are rejected with the same rationale applied against claims 2-9 above.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

        a.   Arndt (US 6,877,158 B1) discloses logical partitioning via hypervisor mediated address translation (see Title).

        b.   Reiner et al (US 6,289, 334 B1) discloses apparatus and method for decomposing database queries for database management system including multiprocessor digital data processing system (see Title).

        c.   Newton et al (US 5,771,291) discloses user identification and authentication system using ultra long identification keys and ultra large databases of identification keys for secure remote terminal access to a host computer (see Title).

        d.   Shambroom (US 6,198,824 B1) discloses system for providing secure remote command execution network (see Title).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanhnga (Tanya) Truong whose telephone number is 571-272-3858.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached at 571-272-3859. The fax and phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

TBT

July 01, 2007